



US Army Corps
of Engineers
St Paul District

Public Notice

ISSUED: 17 April, 2006

SECTION: 404-Clean Water Act

REFER TO: GP-002-WI (2005-7181-MTV)

ISSUANCE OF GENERAL PERMIT GP-002-WI IN THE STATE OF WISCONSIN EXCEPT WITHIN THE EXTERIOR BOUNDARIES OF INDIAN RESERVATIONS.

1. PURPOSE OF THIS PUBLIC NOTICE.

The purpose of this public notice is to announce the issuance of a general permit, GP-002-WI, for the state of Wisconsin (attached).

2. BACKGROUND.

On December 30, 2005, the St. Paul District issued a public notice that described and requested public comment on its proposal to replace the general permit portion of GP/LOP-98-WI with GP-002-WI throughout the state of Wisconsin, except within the exterior boundaries of Indian Reservations.

In the year 2000, the St. Paul District replaced all of the Corps Section 404 nationwide permits (NWP) in the states of Minnesota and Wisconsin with a combination of regional general permits (GPs) and letter-of-permission evaluation procedures (LOPs): GP/LOP-98-MN and GP/LOP-98-WI, respectively. In addition, a similar GP/LOP-98-R was issued for all Indian reservations in both states. GP/LOP-98-WI, originally scheduled to expire on April 16, 2005, was re-authorized for one year and has now expired on April 16, 2006.

The St. Paul District will continue to use Section 404 GPs and LOPs in place of the nationwide general permits. However, instead of combining the GPs and LOP procedures into an integrated package, we are issuing GPs and LOP procedures as separate and distinct documents. Authorization categories, terms and conditions are similar to those found in GP/LOP-98-WI. Some changes were made in response to comments received on the public notice, including:

- In the non-reporting GP, forested wetlands were added to the areas where stream and wetland restoration activities (#7) are excluded.
- Outfall structures: added condition that to qualify for the non-reporting GP, they must be authorized by Ch. 30, Wis. Stats., or exempt from that regulation.
- The minor fills category of the non-reporting GP (#13) was specified to not exceed 500 square feet.
- The Pleasant Prairie exclusion was added back to the non-reporting GP.

- Commercial, residential, industrial, etc., fill category (#10) of the provisional GP was reduced to 0.1 acre (as it was in GP/LOP-98-WI).
- Utility lines (#9 in provisional GP): time for temporary sidecasting was reduced to 2 weeks and authorization for access roads was deleted.
- Impaired Waters: impacts associated with utility substations and footings for utility towers are limited to 0.1 acre in 303(d) listed waters.
- Some other minor changes were made to make language clearer and for consistency.

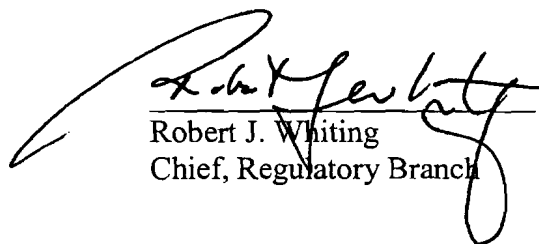
3. ADDITIONAL INFORMATION

GP-002-WI is issued according to the provisions of Section 404 of the Clean Water Act and includes consideration of the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

GP-002-WI does not affect any existing or future Department of the Army Section 10 of the Rivers and Harbors Act NWPs, or any other regional GPs in Wisconsin.

GP-002-WI was designed in cooperation with the WDNR to maximize the combined effectiveness of the state and Federal programs.

GP-002-WI may be viewed on the District Internet web site at: <http://www.mvp.usace.army.mil> under the "Permits" section. Questions may be directed to Ms. Marita Valencia in our St. Paul office at 651-290-5364. Inquiries may also be submitted through the web site or mailed to: Regulatory Branch, St. Paul District, Corps of Engineers, 190 Fifth Street East, St. Paul, Minnesota, 55101-1638.



Robert J. Whiting
Chief, Regulatory Branch

DEPARTMENT OF THE ARMY PERMIT

Permittee: The General Public in Wisconsin

Permit No. GP-002-WI

Issuing Office: St. Paul District
U.S. Army Corps of Engineers

Issuance Date: April 17, 2006

Expiration Date: April 16, 2011

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

GENERAL PERMIT AUTHORIZATIONS: The general public in the State of Wisconsin is authorized to perform work in accordance with the terms and conditions of the general permits (GPs) specified below, after satisfying all applicable permit terms and conditions.

IMPORTANT: Some GP-002-WI authorizations are provisional and require that project proponents obtain a permit or state water quality certification from the Wisconsin Department of Natural Resources (WDNR) before any work is authorized. GP-002-WI authorizations are subject to all applicable terms and conditions specified in this permit. In addition, some GP authorizations may be subject to project-specific special conditions that will be specified in the St. Paul District's letter of confirmation. Refer to the appropriate sections of this permit for a description of GP procedures, eligible activities, conditions, exclusions and application instructions.

PROJECT DESCRIPTION AND LOCATION: GP-002-WI applies to certain discharges of dredged and/or fill material into waters of the United States, including wetlands, as described herein, in the State of Wisconsin except within the exterior boundaries of Indian Reservations.

Department of the Army General Conditions (applicable to all GP-002-WI authorizations):

1. This General Permit (GP) expires on April 16, 2011. The time limit for completing work authorized by the provisions of GP-002-WI ends upon the expiration date of GP-002-WI or two years from the date of the Corps letter confirming the project complies with the requirements for the GP.

2. You must maintain the activity authorized by GP-002-WI in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity. Should you wish to cease to maintain an activity authorized by the provisional GP under GP-002-

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WI, or should you desire to abandon it without a good faith transfer, you must obtain a modification of the authorization from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archaeological remains while accomplishing any activity authorized by GP-002-WI, you must immediately stop work and notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. You must allow representatives from this office and/or the WDNR to inspect the proposed project site and the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of GP-002-WI.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification will be attached to your authorization letter if it contains such conditions.
6. Refer to the other GP-002-WI terms and conditions specified below.

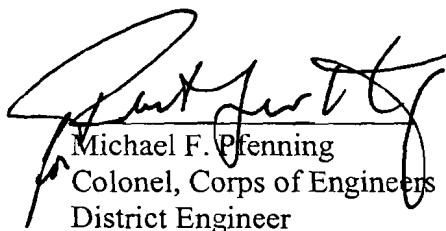
Further Information:

1. Congressional Authorities: Authorization to undertake the activities described above is pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), **only**. Work that also requires authorization under Section 10 of the Rivers and Harbors Act must be authorized separately through other general permits or individual reviews.
2. Limits of this authorization.
 - a. GP-002-WI does not obviate the need to obtain other Federal, state, or local authorizations required by law.
 - b. GP-002-WI does not grant any property rights or exclusive privileges.
 - c. GP-002-WI does not authorize any injury to the property or rights of others.
 - d. GP-002-WI does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In authorizing work, the Federal Government does not assume any liability, including for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the

activity authorized by this permit.

- d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination by this office that a confirmation of authorization is not contrary to the public interest will be made in reliance on the information provided by the applicant.
5. Reevaluation of Decision. This office may reevaluate its decision on an authorization at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a. The applicant fails to comply with the terms and conditions of this general permit.
 - b. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate (see 4 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of the permit and for the initiation of legal action where appropriate. The permittee will be required to pay for any corrective measures ordered by this office, and upon failure to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill the permittee for the cost.
6. This office may also reevaluate its decision to issue General Permit 002 - WI at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following: significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7.

This General Permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.


Michael F. Pfenning
Colonel, Corps of Engineers
District Engineer

April 12, 2006
Date

GP-002-WI TERMS AND PROCEDURES

This describes the Section 404 general permit authorization procedures implemented by the St. Paul District in GP-002-WI.

Persons proposing to do work should especially note that, in ALL cases, GP-002-WI requires that adverse impacts on water and wetland resources be avoided and minimized to the maximum extent practicable. Also, activities that would adversely affect Federal or State endangered plant or animal species or certain cultural or archaeological resources, or that would impair reserved Native American tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights, are not eligible for authorization under GP-002-WI.

1. NON-REPORTING General Permit.

The following discharges, for a single and complete project, that comply with all terms and conditions of GP-002-WI are authorized by this GP. **No Corps application or notification is required under this GP. Project proponents may proceed with the described discharges after very carefully making sure that the work will meet all applicable terms and conditions of GP-002-WI. Certain activities, as noted below, are authorized under the non-reporting GP only if they are regulated and approved by the Wisconsin Department of Natural Resources (WDNR) or specifically exempted from WDNR regulation.** Applicants for all activities should consult with the WDNR and local governments concerning state and local permit requirements.

Note the areas and activities that are EXCLUDED from this non-reporting GP in section b., below.

a. ACTIVITIES ELIGIBLE FOR AUTHORIZATION BY THE NON-REPORTING GP:

1. Maintenance activities. Discharges of dredged or fill material for the repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure or fill, or any currently serviceable structure or fill authorized by 33 CFR 330.3, that affect not more than ½ acre of waters of the U.S., including wetlands, in addition to the area that has already been disturbed by the structure or fill to be maintained. The structure or fill is not to be put to uses differing from those uses specified or contemplated in the original authorization or most recently authorized modification. Minor deviations are allowed where necessary to conform to modern construction practices, materials, construction codes, or safety standards. This GP may be used for road projects that include the replacement of bridge abutments and/or culverts and reconditioning of the roadbed. This GP may not be used for roadway widening beyond the existing footprint or for the addition of new lanes. This GP authorizes the minimal impact repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Section 404(f) exemption for maintenance.

2. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities. Section 404 discharges for fish and wildlife harvesting devices and activities such as pound nets, crayfish/minnow traps, duck blinds, clam digging; and small fish attraction devices. This GP does not authorize artificial reefs or impoundments and semi-impoundments of waters of the United States for the culture or holding of motile species.

3. Scientific Measurement Devices. Section 404 discharges for staff gages,

tide gages, water recording devices, water quality testing and improvement devices and similar structures. Small weirs and flumes constructed primarily to record water quantity and velocity are also authorized provided there is no discharge of unconfined fill or dredged material into waters of the U.S.

4. Survey Activities. Section 404 discharges for survey activities including core sampling, seismic exploratory operations, and plugging of seismic shot holes and other exploratory-type bore holes. Drilling and the discharge of excavated material from test wells for oil and gas exploration is not authorized by this GP; the plugging of such wells is authorized. Fill placed for roads, pads and other similar activities is not authorized by this GP. The discharge of drilling mud and cuttings may require a permit under Section 402 of the Clean Water Act.

5. Oil/Hazardous Substances Containment/Cleanup. Activities required for the containment and cleanup of oil and hazardous substances which are subject to the National Oil and Hazardous Substances Pollution Contingency Plan, (40 CFR Part 300), provided that the work is done in accordance with the Spill Control and Countermeasure Plan required by 40 CFR 112.3 and any existing State contingency plan and provided that the Regional Response Team (if one exists in the area) concurs with the proposed containment and cleanup action

6. Removal of Vessels. Minor discharges of dredged or fill material required for the removal of wrecked, abandoned, or disabled vessels, or the removal of man-made obstructions to navigation. This GP does not authorize the removal of vessels listed or determined eligible for listing on the National Register of Historic Places unless the District Engineer determines

that the work would be done is compliance with the "Historic Properties" general condition. This GP does not authorize maintenance dredging, shoal removal, or river bank snagging. Vessel disposal in waters of the United States may need a permit from EPA (see 40 CFR 229.3).

7. Stream and Wetland Restoration

Activities. This GP does not cover any conversion of sedge meadow and forested wetland to other wetland types. It covers Section 404 activities in waters of the United States associated with the restoration and enhancement of wetlands and riparian areas, the enhancement of degraded wetlands and riparian areas, the creation of wetlands and riparian areas, and the restoration and enhancement of non-Section 10 streams and open water areas on: (i) non-Federal public lands and private lands, in accordance with the terms and conditions of a binding wetland enhancement, restoration or creation agreement between the landowner and the U.S. Fish and Wildlife Service or the Natural Resources Conservation Service (NRCS) or voluntary wetland restoration, enhancement, and creation actions documented by the NRCS pursuant to NRCS regulation; or (ii) on any Federal land. (The future reversion discussed below does not apply to streams or wetlands created, restored or enhanced as mitigation for a mitigation bank); or (iii) by a state agency on any public or private land. This GP cannot be used to authorize activities for the conversion of a stream to another aquatic use, such as the creation of an impoundment for waterfowl habitat. This GP cannot be used to authorize channelization of a stream and does not authorize the conversion of natural wetlands to another aquatic use, such as creation of waterfowl impoundments where a forested wetland previously existed. However, this GP may be used to relocate aquatic habitat types on the project site, provided there are net gains in aquatic resource functions and values. For example, this GP may authorize the creation of an open water impoundment in an emergent wetland, provided the

emergent wetland is replaced by creating that wetland type in the adjacent uplands. **Reversion:** For enhancement, restoration and creation projects conducted under paragraph (ii) and (iii), this GP does not authorize any future discharge of dredged or fill material associated with the reversion of the area to its prior condition. In such cases a separate permit would be required at that time for any reversion. For restoration, enhancement and creation projects conducted under paragraph (i), this GP also authorizes any future discharge of dredged or fill material associated with the reversion of the area to its documented prior condition and use (i.e., prior to the restoration, enhancement, or creation activities) within five years after expiration of a limited term wetland restoration or creation agreement or permit, even if the discharge occurs after this authorization expires. The five year reversion limit does not apply to agreements without time limits reached under paragraph (i). The prior condition will be documented in the original agreement or permit, and the determination of return to prior conditions will be made by the Federal agency or appropriate State agency executing the agreement or permit. Prior to any reversion activity the permittee or the appropriate Federal or State agency must notify the District Engineer and include the documentation of the prior condition. Once an area has reverted back to its prior physical condition, it will be subject to whatever the Corps regulatory requirements will be at that future date. Because projects that would be authorized by this permit are designed to enhance the aquatic environment, mitigation will not be required for the work.

8. Moist Soil Management for Wildlife

Discharges of dredged or fill material and maintenance activities that are associated with moist soil management for wildlife performed on non-tidal Federally/tribal-owned or managed and state-owned or managed property, for the purpose of continuing ongoing, site-specific, wildlife management activities where soil

manipulation is used to manage habitat and feeding areas for wildlife. Such activities include, but are not limited to: the repair, maintenance or replacement of existing water control structures; the repair or maintenance of dikes; and plowing or disking to impede succession, prepare seed beds, or establish fire breaks. Sufficient vegetated buffers must be maintained adjacent to all open water bodies, streams, etc., to preclude water quality degradation due to erosion and sedimentation. This GP does not authorize the construction of new dikes, roads, water control structures, etc. associated with the management areas. This GP does not authorize converting wetlands to uplands, impoundments or other open water bodies.

9. Emergency Watershed Protection - Rehabilitation. Work done by or funded by the Natural Resource Conservation Service qualifying as an "exigency" situation (requiring immediate action) under its Emergency Watershed Protection Program (7 CFR Part 624) and work done or funded by the Forest Service under its Burned-Area Emergency Rehabilitation Handbook (FSH 509.13).

10. Outfall Structures. This activity is **authorized under the non-reporting GP provided that the work is regulated and approved by the WDNR under Chapter 30/31 Wisconsin State Statutes, or, the work is exempt from regulation under that statute.** Activities related to construction of outfall structures and associated intake structures where the effluent from the outfall is authorized, conditionally authorized, or specifically exempted, or which are otherwise in compliance with regulations issued under the National Pollutant Discharge Elimination System program (Section 402 of the Clean Water Act). This GP only authorizes those intake structures that are directly associated with an authorized outfall structure.

11. Bank Stabilization. This activity is **authorized under the non-reporting**

GP provided that the work is regulated and approved by the WDNR under Chapter 30/31 Wisconsin State Statutes, or, the work is exempt from regulation under that statute .

Discharges of dredged or fill material for bank stabilization activities necessary for erosion prevention provided that no material is placed in wetlands and the bank stabilization activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark. (Bank stabilization projects that exceed one cubic yard per running foot or that otherwise do not qualify for this non-reporting GP may be eligible for authorization under a Provisional GP, an LOP or an individual permit).

12. Boat Ramps. This activity is authorized under the non-reporting GP provided that the work is regulated and approved by the WDNR under Chapter 30/31 Wisconsin State Statutes. Discharges required for the construction of boat ramps provided the discharge into waters of the United States does not exceed 50 cubic yards of concrete, rock, crushed stone, or gravel into forms, or placement of pre-cast concrete planks or slabs (unsuitable material that causes unacceptable chemical pollution or is structurally unstable is not authorized); the boat ramp does not exceed 20 feet in width; the base material is crushed stone, gravel or other suitable material; the excavation is limited to the area necessary for site preparation and all excavated material is removed to the upland; and no material is placed in special aquatic sites, including wetlands. Dredging to provide access to the boat ramp may be authorized by another general permit, LOP, or individual permit pursuant to Section 10 if located in navigable waters of the United States.

13. Minor fills that occur in conjunction with activities that are exempt from or determined to be authorized by Ch 30 Wis. Statutes, to a maximum of 500

square feet of impact to waters of the US.

b. AREAS/ACTIVITIES EXCLUDED FROM THE NON-REPORTING GP.

1. Diversions of water. This permit may not be used to authorize all or any portion of a project that would divert more than 10,000 gallons/day of surface water or groundwater into or out of the Great Lakes Basin.

2. In Pleasant Prairie, Wisconsin, area identified in Corps permit 198700323, only discharges for bank stabilization, limited to one cubic yard per running foot, are eligible for authorization under this part of GP-002.WI.

3. Activities in the City of Superior, Wisconsin area subject to the "Superior SAMP" (Corps permits 199606788 through 199606792) are not eligible for authorization under this or any part of GP-002-WI.

4. The non-reporting GP does not authorize any activity in:
A. Federal and State Wild and/or Scenic Rivers. All regulated activities in these rivers, including stream and wetland restoration activities by a government agency, require evaluation under a Corps reporting general permit, letter or permission or standard individual permit procedure.

B. Calcareous fens as identified by WDNR, and wetlands within 300 feet of such fens. All regulated activities in these areas require evaluation under Corps standard individual permit procedures (except oil - hazardous material spill confinement and cleanup, and stream and wetland restoration activities by a government agency as described at 6, above).

C. Coastal wetlands in ridge and swale complexes as identified on WDNR maps, and wetlands adjacent to the Mink River in Door County or the Kakagon and Bad

Rivers in Ashland County.

NOTE: Unless otherwise noted, activities excluded above may be eligible for authorization under a Provisional GP or a letter or permission or an individual permit.

c. APPLICATION/EVALUATION PROCEDURES UNDER THE NON-REPORTING GP:

An activity authorized by this GP may commence when project proponents have carefully confirmed that the activity will be conducted in compliance with all of the terms and conditions of GP-002-WI. No application to the Corps is required; however, if requested, the Corps will confirm whether or not proposed work is authorized by the GP. Persons proposing to do work should note that conditions of the GP require that adverse impacts on water and wetland resources be avoided and minimized to the maximum extent practicable. Activities that would adversely affect Federal or State endangered plant or animal species or certain cultural/archaeological resources are not authorized by this non-reporting general permit. Information about Federal and State endangered species may be obtained by contacting the U. S. Fish and Wildlife Service at (920) 465-7440 or the WDNR at (608) 266-7012. The District's WWW site also contains a link to the U.S. Fish and Wildlife Service list of Federal and State endangered Species for each Wisconsin county. Information concerning cultural resources may be obtained by contacting the State Historic Preservation Office at (608) 264-6505. Project proponents are encouraged to contact these agencies early in project planning because doing so can help avoid violations of Federal law and potentially lengthy project delays.

Persons performing work should be aware that Federal or State regulations concerning endangered species and cultural resources may apply to their projects whether or not the work requires a Corps permit.

2. PROVISIONAL General Permit.

The following discharge activities, for a single and complete project, that comply with all terms and conditions of GP-002-WI are eligible for authorization by this GP. **Persons proposing to do work should note that conditions of GP-002-WI require that adverse impacts on water and wetland resources be avoided and minimized to the maximum extent practicable.**

Note that certain areas and activities are EXCLUDED from this GP by the PROVISIONAL GP EXCLUSIONS described in item b., below

a. ACTIVITIES ELIGIBLE FOR AUTHORIZATION BY THE PROVISIONAL GP:

1. Activities that are excluded from authorization by the non-reporting GP because they are in a coastal wetland area described at 1.b.4.C. Must also comply with Standard Condition # 29.

2. U.S. Coast Guard Approved State or Federally Funded Bridges. Discharges of dredged or fill material incidental to the construction of bridges across navigable waters of the United States, including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills provided such discharges have been authorized or waived by the U.S. Coast Guard as part of the bridge permit. Causeway and approach fills are not included.

3. Return Water From Upland Contained Disposal Areas. Return water from an upland, contained dredged material disposal area. The dredging itself requires a Section 10 permit if located in navigable waters of the United States. The return water from a contained disposal area is administratively defined as a discharge of dredged material by 33 CFR 323.2(d) even though the disposal itself occurs on the upland and thus does

not require a Section 404 permit. Authorization under this GP satisfies the technical requirement for a Section 404 permit for the return water where the quality of the return water is controlled by the State through the Section 401 certification procedures.

4. Hydropower Projects. Discharges of dredged or fill material associated with (a) small hydropower projects at existing reservoirs where the project, which includes the fill, is licensed by the Federal Energy Regulatory Commission (FERC) under the Federal Power Act of 1920, as amended; and has a total generating capacity of not more than 5000 KW; or (b) hydropower projects for which the FERC has granted an exemption from licensing pursuant to Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708) and Section 30 of the Federal Power Act, as amended.

5. Cleanup of Hazardous and Toxic Waste. Specific activities required to effect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority. For discharges in special aquatic sites, including wetlands, the application must include a delineation of affected special aquatic sites, including wetlands. Court ordered remedial action plans or related settlements are also authorized by this GP. This GP does not authorize the establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous or toxic waste.

6. Completed Enforcement Actions. Discharges of dredged or fill material, remaining in place, or undertaken for mitigation, restoration, or environmental benefit in compliance with the terms of a final written Corps non-judicial settlement agreement resolving a Section 404 violation or the terms of an EPA 309(a) order or consent resolving a violation of Section 404 of the CWA or the terms of a state settlement agreement

or order resolving a violation of Sections 281.15 and 283.001, Wisconsin Statutes and NR 299, Wis. Adm. Code and that require Section 404 authorization from the Corps of Engineers. This GP covers only those discharges not authorized under EPA's statutory authority under Section 309(a) of the Clean Water Act and only those discharges where the WDNR has granted State water quality certification and is limited to cases involving water/wetland impacts of 5 acres or less.

7. Temporary Construction, Access and Dewatering. Temporary structures and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites; provided the associated permanent activity was previously authorized by the Corps of Engineers or the U.S. Coast Guard, or for bridge construction activities not subject to Federal regulation. Appropriate measures must be taken to maintain near-normal downstream flows and to minimize flooding. Fill must be of materials and placed in a manner that will not be eroded by expected high flows. Temporary fill must be entirely removed to upland areas following completion of the construction activity and the affected areas restored to the pre-project conditions. Cofferdams cannot be used to dewater wetlands or other aquatic areas so as to change their use. Structures left in place after cofferdams are removed require a Section 10 permit if located in navigable waters of the United States. (See 33 CFR Part 322). The application for this GP must include a restoration plan of reasonable measures to avoid and minimize impacts to aquatic resources. The District Engineer will add special conditions, where necessary, to ensure that adverse environmental impacts are minimal. Such conditions may include: limiting the temporary work to the minimum necessary; requiring seasonal restrictions; modifying the restoration plan; and requiring alternative construction methods (e.g. construction mats in wetlands where practicable).

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This GP does not authorize temporary structures or fill associated with mining activities or the construction of marina basins that have not been authorized by the Corps.

8. Structural Discharges. Discharges of material such as concrete, sand, rock, etc. into tightly sealed forms or cells where the material will be used as a structural member such as a utility pole, bridge support, ramp surface, or retaining wall. This activity does not include building foundations or other structures such as pilings intended for use as building supports.

9. Utility Line Discharges. Activities required for the construction, maintenance and repair of utility lines and associated facilities in waters of the US as follows:

(i) Utility lines: The construction, maintenance, or repair of utility lines, including outfall and intake structures and the associated excavation, backfill, or bedding for the utility lines, in all waters of the US, provided there is no change in preconstruction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication. Material resulting from trench excavation may be temporarily sidecast (up to two weeks) into waters of the US, provided that the material is not placed in such a manner that it is dispersed by currents or other forces. In wetlands, the top 6" to 12" of the trench should normally be backfilled with topsoil from the trench. Furthermore, the trench cannot be constructed in such a manner as to drain waters of the US (e.g., backfilling with extensive gravel layers, creating a french drain effect). For example, utility line trenches can be backfilled with clay blocks to ensure that the trench does not drain the waters of the US through which the utility line is installed. Any exposed

slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

(ii) Utility line substations: The construction, maintenance, or expansion of a substation facility associated with a power line or utility line in waters of the US provided the activity does not result in the loss of greater than 10,000 square feet of waters of the US.

(iii) Foundations for overhead utility line towers, poles, and anchors: The construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the US, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

The term "utility line" does not include activities which drain a water of the US, such as drainage tile, or french drains; however, it does apply to pipes conveying drainage from another area. For the purposes of this GP, the loss of waters of the US includes the filled area plus waters of the US that are adversely affected by flooding, excavation, or drainage as a result of the project.

Activities authorized by paragraphs (i) through (iii) may not exceed a total of 10,000 square feet loss of waters of the US. (See exclusion at 2.b.4., below). Jurisdictional waters temporarily affected by filling, flooding, excavation, or drainage, where the project area is restored to preconstruction contours and elevation, are not included in the calculation of permanent loss of waters of the US. This includes temporary construction mats (e.g., timber, steel, geotextile) used during construction and removed upon completion of the work. Where certain functions and values of waters of the US are permanently adversely affected, such as the conversion of a forested wetland to a herbaceous wetland, mitigation may be required to reduce the adverse effects of the project to the minimal level.

Mechanized land clearing necessary for the construction, maintenance, or repair of utility lines and the construction,

maintenance and expansion of utility line substations, and foundations for overhead utility lines is authorized, provided the cleared area is kept to the minimum necessary and preconstruction contours are maintained as near as possible. The area of waters of the US that is filled, excavated, or flooded must be limited to the minimum necessary to construct the utility line, substations, and foundations. Excess material must be removed to upland areas immediately upon completion of construction.

If using directional-drilling method of utility line installation, the applicant has provided a detailed narrative describing water supply intake(s) and recapture and disposal methods for used drilling fluids.

A plan must be submitted describing the correctional steps to be taken in the event of a leak, either through the substrate into the waterbody or waterway, or onto the upland area with possible return to the waterbody or waterway.

10. Commercial, Residential, Industrial, Agricultural, Recreational and Public Development (including roads for these purposes). Discharges of dredged or fill material for a single and complete project that directly and/or indirectly impact by filling, draining, excavating and/or inundating not more than 0.1 acre of wetland/water area for commercial, residential, industrial or recreational development projects, including associated roads. This provisional GP does NOT include access paths across water or wetland areas to provide upland access to a waterbody for any purpose. It is important for applicants for this GP to include information with their application that clearly shows that an alternatives analysis has been conducted and the proposed work is the least environmentally damaging way that is practicable to accomplish the purpose of the project. This will minimize delays in Federal and State evaluation procedures and increase the chance that the project will receive prompt and favorable review.

11. Wildlife Ponds. Discharges of dredged or fill material for the

construction of wildlife ponds that impact through filling, excavation, and inundation not more than 1.0 acre of waters of the U.S. The wildlife ponds shall be constructed with irregular shorelines, shallow sideslopes (e.g., 8-foot H to 1-foot V), and up to 5-foot water depth. Excess fill material not needed for construction of the pond must be removed to an upland location. The primary purpose of this activity must be wildlife habitat improvement. This GP does not authorize the discharge of fill material for the construction of wildlife ponds in forested wetlands, sedge meadows or calcareous fens.

b. AREAS/ACTIVITIES EXCLUDED FROM THE PROVISIONAL GP.

1. Diversions of Water. This GP may not be used to authorize all or any portion of a project that would divert more than 10,000 gallons/day of surface water or groundwater into or out of the Great Lakes Basin.

2. Activities in the City of Superior, Wisconsin area subject to the "Superior SAMP" (Corps permits 199606788 through 199606792) are not eligible for authorization under this or any part of GP-002-WI.

3. The provisional GP does not authorize any activity in calcareous fens as identified by the WDNR, and waters of the US within 300 feet of such fens. All regulated activities in these areas require evaluation under Corps individual permit procedures.

4. Listed impaired waters. For activities 9. ii (utility line substations) and 9.iii (foundations for utility towers), this GP may not be used to authorize projects that involve filling, draining, or inundating more than 0.1 acre of wetland/water in waterbodies, and adjacent wetlands, that are listed on the EPA-approved list of Wisconsin impaired waters pursuant to Section 303(d) of the Clean Water Act. This exclusion applies only to those impaired waters that are listed for one or

more of the following reasons: nutrients, dissolved oxygen (DO), ammonia, suspended solids, turbidity, sediment, streambank erosion, flow habitat, hydrological modification, wetland loss, siltation and organic enrichment. Such projects in these areas may be eligible for evaluation under a letter of permission procedure.

c. APPLICATION/EVALUATION PROCEDURES UNDER THE PROVISIONAL GP:

Applicants must submit a complete application to both the St. Paul District of the Corps of Engineers and the Wisconsin Department of Natural Resources using the joint state-Federal application form that is available from District and WDNR offices and on the websites of both agencies. Upon receipt of a permit application, the District will promptly provide a copy of the application to the WDNR and commence to review the proposed activity to determine eligibility for the provisional GP. In some cases, the District may require a wetland delineation prepared in accordance with the 1987 Corps of Engineers Wetland Delineation Manual before the application will be considered complete. The applicant may ask the Corps to prepare the delineation; however, applicants are encouraged to obtain the services of professional consultants to avoid delays. The District will complete its review as noted below and send the applicant a letter advising of the outcome. If the District decision is to issue a provisional GP, the District letter to the applicant will be a provisional GP confirmation letter. The District will simultaneously send a copy of the letter to the WDNR.

ENDANGERED SPECIES AND CULTURAL RESOURCES REVIEW.

The St. Paul District review will include a determination concerning compliance of the project with Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act.

Projects found not to comply with either or both of these Acts will not be authorized under the GP or any other Corps permit authorization until actions are taken so that compliance with both Acts is assured. The District Federal endangered species review will consist of District staff consulting appropriate reference materials including endangered species information published by the U.S. Fish and Wildlife Service (USFWS) in informational brochures and on Internet World Wide Web pages and any other available data, information or specific guidance provided by USFWS. District staff will be aware of locations where endangered species are known or likely to be present and of the types of activities that may affect those species. District staff will directly consult with USFWS staff concerning proposals which appear to have potential to affect listed species. The review will include District and/or USFWS site inspections of specific project sites, and/or formal Section 7 interagency consultation where necessary.

In addition, during the Federal review of provisional GP applications, District staff will consult state endangered species information made available by the WDNR. District staff will consult with WDNR staff concerning proposals that appear to have potential to affect state listed species.

The District Federal cultural resources review will be conducted in a manner similar to the endangered species review. The National Register of Historic Places will be consulted to determine the presence or absence of known cultural resources. District regulatory staff will be aware of areas that have a high probability to contain important cultural resources and will consult District cultural resource staff concerning questionable projects. District regulatory or cultural resource staff will consult with the State Historic Preservation Officer on appropriate projects. Cultural resource surveys and/or formal consultation with the President's Advisory Council on Historic Preservation will be conducted where necessary.

COMPENSATORY MITIGATION

The St. Paul District may require compensatory mitigation for any impacts authorized under a Provisional GP if a determination is made that the functions lost or impaired by the proposed project are of high value and warrant replacement. These determinations are made on a case-by-case basis, however, projects that adversely affect 10,000 square feet, or more of waters of the U.S. will require compensation. Applicants whose project requires compensatory mitigation should include a mitigation plan prepared in accordance with the *Guidelines for Wetland Compensatory Mitigation in Wisconsin* (February 2002) that describes the measures proposed to offset the adverse impacts of the project. Compensatory mitigation that is proposed to satisfy state or local requirements may, but will not necessarily, satisfy the Federal requirement.

Work is authorized under the provisional GP when the project proponent receives both a provisional GP confirmation letter from the St. Paul District AND confirmation from the WDNR that State water quality certification has been granted or waived for the project. Also note Standard Condition 30 concerning the need for Wisconsin Coastal Management Program certification for activities in coastal wetlands in ridge and swale complexes as identified on WDNR maps, and wetlands adjacent to the Mink River in Door County or the Kakagon and Bad Rivers in Ashland County.

GP-002-WI PROVISIONS

DEFINITIONS.

Calculation of Aquatic Impact

Thresholds: For those activities with threshold limits, impacts shall be determined by calculating area of waters of the U.S. filled plus the impacts to waters of the US that are excavated, inundated, or drained as a result of the

regulated discharge.

Discharge of Fill Material: the term fill material means material placed in waters of the United States where the material has the effect of:

- (i) Replacing any portion of a water of the United States with dry land; or
- (ii) Changing the bottom elevation of any portion of a water of the United States.

Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in the waters of the United States. The term fill material does not include trash or garbage.

Loss of waters. Refers to Waters of the U.S. that are filled or permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade fills that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change its use. The loss of streambed includes the linear feet of streambed that is filled, excavated, or flooded. Waters of the U.S. temporarily filled, flooded, excavated, or drained but restored to preconstruction contours and elevations after construction are not typically included in the measurement of loss of waters of the U.S. However, temporary fill in waters of the U.S. is regulated by Section 404.

Practicable: available and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purpose.

Single and Complete Project. For purposes of Department of the Army permits, the term, "single and complete project" means the total project proposed by the project proponent. For example, if construction of a residential development or linear project such as a road or utility

line affects several different areas of waters of the U.S., the cumulative total of all filled areas is the basis for deciding the project's total wetland/water impact. For "phased" developments, each phase may constitute a single and complete project if it has independent utility and would accomplish its intended purpose whether or not other phases were constructed.

GP-002-WI STANDARD CONDITIONS

1. Discretionary Authority. The Corps retains discretionary authority to require an individual permit review of any activity eligible for authorization under GP-002-WI based on concern for the aquatic environment or for any public interest factor.

2. Federal Trust Responsibility to Indian Tribes. Projects the District finds to have potential to affect tribal interests will be coordinated with the appropriate Indian Tribal governments. The Tribe's views and the Federal trust responsibility will be considered in the District's evaluation. Throughout the state, including the treaty-ceded territories, the District review of all GP projects which impact more than 10,000 square feet of wetland/water area will include coordination with any potentially affected tribe(s). The District will provide, by facsimile transmission, project notifications to the concerned tribe(s) for a 30-day review period. The views of the tribe(s) will be considered in the District's evaluation of the activity and in the District's determination of whether the activity is in compliance with the general permit. Based on treaty rights, no activity or its operation may impinge or abrogate reserved treaty rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

3. Form and confirmation of authorization. Every GP-002-WI authorization that requires submission of

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an application will be confirmed in writing by the St. Paul District sending the project proponent a letter confirming authorization. The letter will identify any required special conditions.

4. Federal and State Endangered Species and Cultural Resources.

GP-002-WI does not affect the Corps responsibility to insure that all Section 404 authorizations comply with Section 7 of the Federal Endangered Species Act, s. 29.604, Wisconsin Statutes and Section 106 of the National Historic Preservation Act. No Corps GP will be granted for projects found not to comply with these Acts.

5. Grandfather Provision. Regulated work for commenced activities that were authorized under the GP/LOP-98-WI, and for activities previously confirmed by the District in writing to be authorized under GP/LOP-98-WI, continues to be authorized under the terms of the permits that existed at the time of original confirmation of authorization for two years after the issuance date of GP-002-WI.

6. Case-by-case conditions. The authorized activity must comply with any special conditions that may have been added by the District or by a state, tribe, or the U.S. Environmental Protection Agency in its section 401 water quality certification or consistency determination under the Coastal Zone Management Act. Such conditions will be specifically identified in any Corps authorization.

7. Mitigation/Sequencing. Discharges of dredged or fill material into waters of the United States must be avoided and minimized to the maximum extent practicable.

8. State/Tribal Water quality certification and Coastal zone management (CZM) consistency determination. Some GP-002-WI authorizations may not be valid unless and until the WDNR has confirmed that

the activity complies with state water quality certification and/or CZM consistency determination is obtained from or waived by the Wisconsin Coastal Management Program. If such a condition applies, it will be so noted in the Corps authorization letter for the project. See conditions 29 and 30 at the end of this document.

9. Proper maintenance. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

10. Erosion and siltation controls. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark must be permanently stabilized at the earliest practicable date. Work should be done in accordance with state-approved published practices.

Upon completion of earthwork operations, all exposed slopes, fills, and disturbed areas must be given sufficient protection by appropriate means such as landscaping, or planting and maintaining vegetative cover, to prevent subsequent erosion. Cofferdams shall be constructed and maintained so as to prevent erosion into the water. If earthen material is used for cofferdam construction, sheet piling, riprap or a synthetic cover must be used to prevent dam erosion.

11. Removal of temporary fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

12. Federal and State threatened and endangered Species. a. No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act and/or State law or which is likely to destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District if any listed species or

critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the District that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

b. Authorization of an activity under GP002-WI does not authorize the take of a threatened or endangered species as defined under the Federal Endangered Species Act or State law. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with incidental take provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal takes of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. Fish and Wildlife Service and National Marine Fisheries Service, WDNR or their world wide web pages on the Internet.

13. Historic properties, cultural resources. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee must include notification to the District in the permit application if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places.

If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work

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must be stopped immediately and the State Historic Preservation Officer must be contacted for further instruction.

14. Spawning areas. Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.

15. Obstruction of high flows. To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

16. Adverse effects from impoundments. If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

17. Waterfowl breeding areas. Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

18. Navigation. No activity may cause more than a minimal adverse effect on navigation.

19. Aquatic life movements. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.

20. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

21. Water quality standards. All work or discharges to a watercourse resulting from permitted construction activities, particularly hydraulic dredging, must meet applicable Federal, State, and local water quality and effluent standards on a

continuing basis.

22. Preventive measures. Measures must be adopted to prevent potential pollutants from entering the watercourse. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a manner that would allow them to enter the watercourse as a result of spillage, natural runoff, or flooding.

23. Disposal sites. If dredged or excavated material is placed on an upland disposal site (above the ordinary high-water mark), the site must be securely diked or contained by an acceptable method that prevents the return of potentially polluting materials to the watercourse by surface runoff or by leaching. The containment area, whether bulkhead or upland disposal site, must be fully completed prior to the placement of any dredged material.

24. Suitable fill material All fill (including riprap), if authorized under this permit, must consist of suitable material (e.g., no trash, debris, car bodies, asphalt, etc.) free from toxic pollutants in other than trace quantities (see Section 307 of the Clean Water Act). In addition, rock or fill material used for activities dependent upon this permit and obtained by excavation must either be obtained from existing quarries or, if a new borrow site is opened up to obtain fill material, the State Historic Preservation Officer (SHPO) must be notified prior to the use of the new site. Evidence of this consultation with the SHPO will be forwarded to the St. Paul District Office.

25. Water intakes/activities. An investigation must be made to identify water intakes or other activities that may be affected by suspended solids and turbidity increases caused by work in the watercourse. Sufficient notice must be given to the owners of property where the activities would take place to allow them to prepare for any changes in water

quality.

26. Spill contingency plan. A contingency plan must be formulated that would be effective in the event of a spill. This requirement is particularly applicable in operations involving the handling of petroleum products. If a spill of any potential pollutant should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the State Duty Officer at 1-800-943-0003 and the U.S. Coast Guard at telephone number 1-800-424-8802.

27. Other permit requirements. No Corps GP-002-WI authorization eliminates the need for other local, state or Federal authorizations, including but not limited to National Pollutant Discharge Elimination System (NPDES) or State Disposal System (SDS) permits.

28. State Section 401 Certification Conditions and Limitations of Section 401 Certification for GP-002-WI:

I. GENERAL CONDITIONS:

1. The applicant shall allow the WDNR reasonable entry and access to the discharge site to inspect the proposed discharge for compliance with this certification and applicable laws and to inspect permitted discharges for compliance with this certification and applicable laws.

2. If any conditions of this certification are found to be invalid or unenforceable, certification for all activities to which that condition applies is denied.

3. The following activities are not eligible for certification under this water quality certification action for GP-002-WI.

A. Activities likely to jeopardize the continued existence of a state designated threatened or endangered

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species or a species proposed for such designation or which is likely to destroy or adversely modify the habitat of such species.

- B. Activities that result in adverse impacts to fishery spawning habitat or adversely affect avifauna breeding areas or substantially disrupt the movement of those species that normally migrate from open water to upland or vice versa (i.e. amphibians, reptiles and mammals).
- C. Activities detrimental to waters of the state, including wetlands, that would adversely affect designated areas of special natural resource interest as defined in NR 103.04, Wis. Adm. Code.
- D. Activities, individually or cumulatively, detrimental to waters of the state, including wetlands, that would further the substantial degradation of designated impaired waters of the state.

4. Applicants seeking authorization under this regional general permit (except the non-reporting general permit) shall complete a Joint State/Federal Permit Application and submit two copies of each to the appropriate local COE office and the local WDNR Water Management Specialist. Applications for water quality certification must be complete as determined by the WDNR. Please note an application fee is required for state water quality certification activities identified under Section II below.

II. WATER QUALITY CERTIFICATION

1. The WDNR grants water quality certification for the **Non-Reporting GP** subject to compliance with all applicable conditions in GP-002-WI and compliance with conditions 1., 2., 3., and 4. above.

2. The WDNR grants water quality certification for projects that satisfy all applicable conditions of GP-002-WI under the **Provisional GP** subject to the **General Conditions** above, and:

3. The applicant receives written confirmation from the department that their proposed activity(s) is consistent with the requirements of **NR 299 Water Quality Certification**, Wis. Adm. Code, and the Department confirms that the applicant has adequately demonstrated that no other practicable alternative exists which would not adversely impact wetlands and would not result in other significant adverse environmental consequences and the Department confirms that the activity is consistent with the requirements of NR 103.08, Wis. Adm. Code.

NOTE: If additional information is needed, or if heavy snow or ice cover prevents WDNR from completing their review, the normal processing time for confirming activities eligible for authorization under this certification may be extended (by written notice from WDNR to the applicant.)

29. Wisconsin Coastal Management Program (WCMP) Conditions. The WCMP's Federal consistency determination for GP-002-WI provides that no GP-002-WI authorization for an activity taking place in coastal wetlands identified as ridge and swale complexes and/or wetlands adjacent to the Mink River, Door County, and the Kakagon and Bad Rivers, Ashland County will be valid unless and until a Federal consistency determination is granted or waived by the WCMP. This requirement therefore is incorporated as a permit condition of GP-002-WI. Applicants will be notified of this condition in the District's GP provisional authorization for projects in these areas.